

**THIS DECISION IS NOT
CITABLE AS PRECEDENT
OF THE TTAB**

Paper No. 15

TJQ

Mailed:5/13/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Elegant Headwear Co., Inc.

Serial No. 75886511

Request for Reconsideration

Myron Amer for Elegant Headwear Co., Inc.

Mary Rossman, Trademark Examining Attorney, Law Office 108
(David Shallant, Managing Attorney).

Before Seeherman, Quinn and Holtzman, Administrative
Trademark Judges.

Opinion by Quinn, Administrative Trademark Judge:

The Board, in a decision dated March 17, 2004,
affirmed the refusal to register based on likelihood of
confusion. The requirement for additional information was
reversed. Lastly, the Board affirmed the requirement for a
disclaimer of the words "Stretch Gloves."

Applicant filed, on April 12, 2004, a disclaimer of "Stretch Gloves," and a request for reconsideration of the Board's decision on likelihood of confusion.¹

Applicant's disclaimer of the words "Stretch Gloves" apart from the mark is accepted. Accordingly, that portion of our March 17, 2004 decision dealing with the disclaimer issue and our affirmance of the disclaimer requirement is set aside.

With respect to likelihood of confusion, applicant continues to stress its perceived notion as to "the unitary nature of the word STRETCH to the word MAGIC," and that the Board failed to take into account that applicant's gloves are "one size fits all" and that the stretch gloves allow for ambidextrous use.

We are not persuaded by applicant's arguments. As set forth in our decision, applicant's "children's gloves, namely, in the nature of one size fits all consisting of 95% acrylic spandex" and registrant's "fashion gloves for youth" are closely related. We stand by our conclusion that consumers are likely to believe that applicant's MAGIC STRETCH GLOVES identifies a stretch version of registrant's

¹ The submission of the document attached to the request for reconsideration is untimely. Trademark Rule 2.142(d). We hasten to add that even if considered, the document is not persuasive of a different result in this case.

Ser. No. 75886511

gloves sold under the mark MAGIC GLOVE.

The request for reconsideration of the affirmance of the likelihood of confusion refusal is denied.